

FIRST REGULAR SESSION

HOUSE BILL NO. 1201

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MESSENGER.

2498H.021

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 32.110, 67.3005, 100.297, 100.850, 135.403, 135.484, 135.680, 135.967, and 620.2010, RSMo, and to enact in lieu thereof twelve new sections relating to tax credits.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 32.110, 67.3005, 100.297, 100.850, 135.403, 135.484, 135.680,
2 135.967, and 620.2010, RSMo, are repealed and twelve new sections enacted in lieu thereof, to
3 be known as sections 32.110, 67.3005, 100.297, 100.850, 135.403, 135.484, 135.680, 135.967,
4 135.1760, 143.1023, 143.1050, and 620.2010, to read as follows:

32.110. **1.** Any business firm which engages in the activities of providing physical
2 revitalization, economic development, job training or education for individuals, community
3 services, or crime prevention in the state of Missouri shall receive a tax credit as provided in
4 section 32.115 if the director of the department of economic development annually approves the
5 proposal of the business firm; except that, no proposal shall be approved which does not have
6 the endorsement of the agency of local government within the area in which the business firm
7 is engaging in such activities which has adopted an overall community or neighborhood
8 development plan that the proposal is consistent with such plan. The proposal shall set forth the
9 program to be conducted, the neighborhood area to be served, why the program is needed, the
10 estimated amount to be contributed to the program and the plans for implementing the program.
11 If, in the opinion of the director of the department of economic development, a business firm's
12 contribution can more consistently with the purposes of sections 32.100 to 32.125 be made
13 through contributions to a neighborhood organization as defined in subdivision (13) of section
14 32.105, tax credits may be allowed as provided in section 32.115. The director of the department
15 of economic development is hereby authorized to promulgate rules and regulations for

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 establishing criteria for evaluating such proposals by business firms for approval or disapproval
17 and for establishing priorities for approval or disapproval of such proposals by business firms
18 with the assistance and approval of the director of the department of revenue. The total amount
19 of tax credit granted for programs approved pursuant to sections 32.100 to 32.125 shall not
20 exceed fourteen million dollars in fiscal year 1999 and twenty-six million dollars in fiscal year
21 2000, and any subsequent fiscal year, except as otherwise provided for proposals approved
22 pursuant to section 32.111, 32.112 or 32.117. All tax credits authorized pursuant to the
23 provisions of sections 32.100 to 32.125 may be used as a state match to secure additional federal
24 funding.

25 **2. Notwithstanding the provisions of this section or any other section to the**
26 **contrary, for all fiscal years beginning on or after July 1, 2017, the total amount of tax**
27 **credits authorized in any fiscal year under the provisions of this section shall not exceed**
28 **sixteen million dollars.**

67.3005. 1. For all taxable years beginning on or after January 1, 2013, any taxpayer
2 shall be allowed a credit against the taxes otherwise due under chapter 143, 147, or 148,
3 excluding withholding tax imposed by sections 143.191 to 143.265, in an amount equal to fifty
4 percent of the amount of an eligible donation, subject to the restrictions in this section. The
5 amount of the tax credit claimed shall not exceed the amount of the taxpayer's state income tax
6 liability in the tax year for which the credit is claimed. Any amount of credit that the taxpayer
7 is prohibited by this section from claiming in a tax year shall not be refundable, but may be
8 carried forward to any of the taxpayer's two subsequent taxable years.

9 2. To claim the credit authorized in this section, a certified sponsor or local organizing
10 committee shall submit to the department an application for the tax credit authorized by this
11 section on behalf of taxpayers. The department shall verify that the applicant has submitted the
12 following items accurately and completely:

13 (1) A valid application in the form and format required by the department;

14 (2) A statement attesting to the eligible donation received, which shall include the name
15 and taxpayer identification number of the individual making the eligible donation, the amount
16 of the eligible donation, and the date the eligible donation was received; and

17 (3) Payment from the certified sponsor or local organizing committee equal to the value
18 of the tax credit for which application is made. If the certified sponsor or local organizing
19 committee applying for the tax credit meets all criteria required by this subsection, the
20 department shall issue a certificate in the appropriate amount.

21 3. Tax credits issued under this section may be assigned, transferred, sold, or otherwise
22 conveyed, and the new owner of the tax credit shall have the same rights in the credit as the
23 taxpayer. Whenever a certificate is assigned, transferred, sold, or otherwise conveyed, a

24 notarized endorsement shall be filed with the department specifying the name and address of the
25 new owner of the tax credit or the value of the credit. In no event shall the amount of tax credits
26 issued by the department under this section exceed [ten] **five** million dollars in any fiscal year.

27 4. The department shall promulgate rules to implement the provisions of this section.
28 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the
29 authority delegated in this section shall become effective only if it complies with and is subject
30 to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
31 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
32 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
33 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
34 or adopted after August 28, 2013, shall be invalid and void.

35 5. Under section 23.253 of the Missouri sunset act:

36 (1) The provisions of the new program authorized under section 67.3000 and under this
37 section shall automatically sunset six years after August 28, 2013, unless reauthorized by an act
38 of the general assembly; and

39 (2) If such program is reauthorized, the program authorized under section 67.3000 and
40 under this section shall automatically sunset twelve years after the effective date of the
41 reauthorization of these sections; and

42 (3) Section 67.3000 and this section shall terminate on September first of the calendar
43 year immediately following the calendar year in which the program authorized under these
44 sections is sunset.

100.297. 1. The board may authorize a tax credit, as described in this section, to the
2 owner of any revenue bonds or notes issued by the board pursuant to the provisions of sections
3 100.250 to 100.297, for infrastructure facilities as defined in subdivision (9) of section 100.255,
4 if, prior to the issuance of such bonds or notes, the board determines that:

5 (1) The availability of such tax credit is a material inducement to the undertaking of the
6 project in the state of Missouri and to the sale of the bonds or notes;

7 (2) The loan with respect to the project is adequately secured by a first deed of trust or
8 mortgage or comparable lien, or other security satisfactory to the board.

9 2. Upon making the determinations specified in subsection 1 of this section, the board
10 may declare that each owner of an issue of revenue bonds or notes shall be entitled, in lieu of any
11 other deduction with respect to such bonds or notes, to a tax credit against any tax otherwise due
12 by such owner pursuant to the provisions of chapter 143, excluding withholding tax imposed by
13 sections 143.191 to 143.261, chapter 147, or chapter 148, in the amount of one hundred percent
14 of the unpaid principal of and unpaid interest on such bonds or notes held by such owner in the
15 taxable year of such owner following the calendar year of the default of the loan by the borrower

16 with respect to the project. The occurrence of a default shall be governed by documents
17 authorizing the issuance of the bonds. The tax credit allowed pursuant to this section shall be
18 available to the original owners of the bonds or notes or any subsequent owner or owners thereof.
19 Once an owner is entitled to a claim, any such tax credits shall be transferable as provided in
20 subsection 7 of section 100.286. Notwithstanding any provision of Missouri law to the contrary,
21 any portion of the tax credit to which any owner of a revenue bond or note is entitled pursuant
22 to this section which exceeds the total income tax liability of such owner of a revenue bond or
23 note shall be carried forward and allowed as a credit against any future taxes imposed on such
24 owner within the next ten years pursuant to the provisions of chapter 143, excluding withholding
25 tax imposed by sections 143.191 to 143.261, chapter 147, or chapter 148. The eligibility of the
26 owner of any revenue bond or note issued pursuant to the provisions of sections 100.250 to
27 100.297 for the tax credit provided by this section shall be expressly stated on the face of each
28 such bond or note. The tax credit allowed pursuant to this section shall also be available to any
29 financial institution or guarantor which executes any credit facility as security for bonds issued
30 pursuant to this section to the same extent as if such financial institution or guarantor was an
31 owner of the bonds or notes, provided however, in such case the tax credits provided by this
32 section shall be available immediately following any default of the loan by the borrower with
33 respect to the project. In addition to reimbursing the financial institution or guarantor for claims
34 relating to unpaid principal and interest, such claim may include payment of any unpaid fees
35 imposed by such financial institution or guarantor for use of the credit facility.

36 3. The aggregate principal amount of revenue bonds or notes outstanding at any time
37 with respect to which the tax credit provided in this section shall be available shall not exceed
38 fifty million dollars. **Notwithstanding the provisions of this section or any other section to**
39 **the contrary, for all fiscal years beginning on or after July 1, 2017, the total amount of tax**
40 **credits authorized in any fiscal year under the provisions of sections 100.250 to 100.297**
41 **shall not exceed forty million dollars.**

100.850. 1. The approved company shall remit to the board a job development
2 assessment fee, not to exceed five percent of the gross wages of each eligible employee whose
3 job was created as a result of the economic development project, or not to exceed ten percent if
4 the economic development project is located within a distressed community as defined in section
5 135.530, for the purpose of retiring bonds which fund the economic development project.

6 2. Any approved company remitting an assessment as provided in subsection 1 of this
7 section shall make its payroll books and records available to the board at such reasonable times
8 as the board shall request and shall file with the board documentation respecting the assessment
9 as the board may require.

10 3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the
11 date the bonds are retired.

12 4. Any approved company which has paid an assessment for debt reduction shall be
13 allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed
14 against taxes otherwise imposed by chapters 143 and 148, except withholding taxes imposed
15 under the provisions of sections 143.191 to 143.265, which were incurred during the tax period
16 in which the assessment was made.

17 5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this
18 section exceed twenty-five million dollars annually. Of such amount, nine hundred fifty
19 thousand dollars shall be reserved for an approved project for a world headquarters of a business
20 whose primary function is tax return preparation that is located in any home rule city with more
21 than four hundred thousand inhabitants and located in more than one county, which amount
22 reserved shall end in the year of the final maturity of the certificates issued for such approved
23 project. **Notwithstanding the provisions of this section or any other section to the contrary,**
24 **for all fiscal years beginning on or after July 1, 2017, the total amount of tax credits**
25 **authorized in any fiscal year under the provisions of sections 100.700 to 100.850 shall not**
26 **exceed fifteen million dollars.**

27 6. The director of revenue shall issue a refund to the approved company to the extent that
28 the amount of credits allowed in subsection 4 of this section exceeds the amount of the approved
29 company's income tax.

135.403. 1. Any investor who makes a qualified investment in a Missouri small business
2 shall be entitled to receive a tax credit equal to forty percent of the amount of the investment or,
3 in the case of a qualified investment in a Missouri small business in a distressed community as
4 defined by section 135.530, a credit equal to sixty percent of the amount of the investment, and
5 any investor who makes a qualified investment in a community bank or a community
6 development corporation shall be entitled to receive a tax credit equal to fifty percent of the
7 amount of the investment if the investment is made in a community bank or community
8 development corporation for direct investment. The total amount of tax credits available for
9 qualified investments in Missouri small businesses shall not exceed thirteen million dollars and
10 at least four million dollars of the amount authorized by this section and certified by the
11 department of economic development shall be for investment in Missouri small businesses in
12 distressed communities. Authorization for all or any part of this four-million-dollar amount shall
13 in no way restrict the eligibility of Missouri small businesses in distressed communities, as
14 defined in section 135.530, for the remaining amounts authorized within this section. No more
15 than twenty percent of the tax credits available each year for investments in community banks
16 or community development corporations for direct investment shall be certified for any one

17 project, as defined in section 135.400. The tax credit shall be evidenced by a tax credit
18 certificate in accordance with the provisions of sections 135.400 to 135.430 and may be used to
19 satisfy the state tax liability of the owner of the certificate that becomes due in the tax year in
20 which the qualified investment is made, or in any of the ten tax years thereafter. When the
21 qualified small business is in a distressed community, as defined in section 135.530, the tax
22 credit may also be used to satisfy the state tax liability of the owner of the certificate that was due
23 during each of the previous three years in addition to the year in which the investment is made
24 and any of the ten years thereafter. No investor may receive a tax credit pursuant to sections
25 135.400 to 135.430 unless that person presents a tax credit certificate to the department of
26 revenue for payment of such state tax liability. The department of revenue shall grant tax credits
27 in the same order as established by subsection 1 of section 32.115. Subject to the provisions of
28 sections 135.400 to 135.430, certificates of tax credit issued in accordance with these sections
29 may be transferred, sold or assigned by notarized endorsement thereof which names the
30 transferee.

31 2. Five hundred thousand dollars in tax credits shall be available annually from the total
32 amount of tax credits authorized by section 32.110 and subdivision (4) of subsection 2 of section
33 32.115 as a result of investments in community banks or community development corporations.
34 Aggregate investments eligible for tax credits in any one Missouri small business shall not be
35 more than one million dollars. Aggregate investments eligible for tax credits in any one
36 Missouri small business shall not be less than five thousand dollars as of the date of issuance of
37 the first tax credit certificate for investment in that business.

38 3. **Notwithstanding the provisions of this section or any other section to the**
39 **contrary, for all fiscal years beginning on or after July 1, 2017, the total amount of tax**
40 **credits authorized in any fiscal year under the provisions of sections 135.400 to 135.433**
41 **shall not exceed eight million dollars.**

42 4. This section and section 620.1039 shall become effective January 1, 2001.

135.484. 1. Beginning January 1, 2000, tax credits shall be allowed pursuant to section
2 135.481 in an amount not to exceed sixteen million dollars per year. Of this total amount of tax
3 credits in any given year, eight million dollars shall be set aside for projects in areas described
4 in subdivision (6) of section 135.478 and eight million dollars for projects in areas described in
5 subdivision (10) of section 135.478. The maximum tax credit for a project consisting of
6 multiple-unit qualifying residences in a distressed community shall not exceed three million
7 dollars. **Notwithstanding the provisions of this section or any other section to the contrary,**
8 **for all fiscal years beginning on or after July 1, 2017, the total amount of tax credits**
9 **authorized in any fiscal year under the provisions of sections 135.475 to 135.487 shall not**
10 **exceed six million dollars.**

11 2. Any amount of credit which exceeds the tax liability of a taxpayer for the tax year in
12 which the credit is first claimed may be carried back to any of the taxpayer's three prior tax years
13 and carried forward to any of the taxpayer's five subsequent tax years. A certificate of tax credit
14 issued to a taxpayer by the department may be assigned, transferred, sold or otherwise conveyed.
15 Whenever a certificate of tax credit is assigned, transferred, sold or otherwise conveyed, a
16 notarized endorsement shall be filed with the department specifying the name and address of the
17 new owner of the tax credit and the value of the credit.

18 3. The tax credits allowed pursuant to sections 135.475 to 135.487 may not be claimed
19 in addition to any other state tax credits, with the exception of the historic structures
20 rehabilitation tax credit authorized pursuant to sections 253.545 to 253.559, which insofar as
21 sections 135.475 to 135.487 are concerned may be claimed only in conjunction with the tax
22 credit allowed pursuant to subsection 4 of section 135.481. In order for a taxpayer eligible for
23 the historic structures rehabilitation tax credit to claim the tax credit allowed pursuant to
24 subsection 4 of section 135.481, the taxpayer must comply with the requirements of sections
25 253.545 to 253.559, and in such cases, the amount of the tax credit pursuant to subsection 4 of
26 section 135.481 shall be limited to the lesser of twenty percent of the taxpayer's eligible costs or
27 forty thousand dollars.

135.680. 1. As used in this section, the following terms shall mean:

- 2 (1) "Adjusted purchase price", the product of:
- 3 (a) The amount paid to the issuer of a qualified equity investment for such qualified
4 equity investment; and
- 5 (b) The following fraction:
- 6 a. The numerator shall be the dollar amount of qualified low-income community
7 investments held by the issuer in this state as of the credit allowance date during the applicable
8 tax year; and
- 9 b. The denominator shall be the total dollar amount of qualified low-income community
10 investments held by the issuer in all states as of the credit allowance date during the applicable
11 tax year;
- 12 c. For purposes of calculating the amount of qualified low-income community
13 investments held by an issuer, an investment shall be considered held by an issuer even if the
14 investment has been sold or repaid; provided that the issuer reinvests an amount equal to the
15 capital returned to or recovered by the issuer from the original investment, exclusive of any
16 profits realized, in another qualified low-income community investment within twelve months
17 of the receipt of such capital. An issuer shall not be required to reinvest capital returned from
18 qualified low-income community investments after the sixth anniversary of the issuance of the
19 qualified equity investment, the proceeds of which were used to make the qualified low-income

20 community investment, and the qualified low-income community investment shall be considered
21 held by the issuer through the seventh anniversary of the qualified equity investment's issuance;

22 (2) "Applicable percentage", zero percent for each of the first two credit allowance dates,
23 seven percent for the third credit allowance date, and eight percent for the next four credit
24 allowance dates;

25 (3) "Credit allowance date", with respect to any qualified equity investment:

26 (a) The date on which such investment is initially made; and

27 (b) Each of the six anniversary dates of such date thereafter;

28 (4) "Long-term debt security", any debt instrument issued by a qualified community
29 development entity, at par value or a premium, with an original maturity date of at least seven
30 years from the date of its issuance, with no acceleration of repayment, amortization, or
31 prepayment features prior to its original maturity date, and with no distribution, payment, or
32 interest features related to the profitability of the qualified community development entity or the
33 performance of the qualified community development entity's investment portfolio. The
34 foregoing shall in no way limit the holder's ability to accelerate payments on the debt instrument
35 in situations where the issuer has defaulted on covenants designed to ensure compliance with this
36 section or Section 45D of the Internal Revenue Code of 1986, as amended;

37 (5) "Qualified active low-income community business", the meaning given such term
38 in Section 45D of the Internal Revenue Code of 1986, as amended; provided that any business
39 that derives or projects to derive fifteen percent or more of its annual revenue from the rental or
40 sale of real estate shall not be considered to be a qualified active low-income community
41 business;

42 (6) "Qualified community development entity", the meaning given such term in Section
43 45D of the Internal Revenue Code of 1986, as amended; provided that such entity has entered
44 into an allocation agreement with the Community Development Financial Institutions Fund of
45 the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal
46 Revenue Code of 1986, as amended, which includes the state of Missouri within the service area
47 set forth in such allocation agreement;

48 (7) "Qualified equity investment", any equity investment in, or long-term debt security
49 issued by, a qualified community development entity that:

50 (a) Is acquired after September 4, 2007, at its original issuance solely in exchange for
51 cash;

52 (b) Has at least eighty-five percent of its cash purchase price used by the issuer to make
53 qualified low-income community investments; and

54 (c) Is designated by the issuer as a qualified equity investment under this subdivision and
55 is certified by the department of economic development as not exceeding the limitation contained

56 in subsection 2 of this section. This term shall include any qualified equity investment that does
57 not meet the provisions of paragraph (a) of this subdivision if such investment was a qualified
58 equity investment in the hands of a prior holder;

59 (8) "Qualified low-income community investment", any capital or equity investment in,
60 or loan to, any qualified active low-income community business. With respect to any one
61 qualified active low-income community business, the maximum amount of qualified low-income
62 community investments made in such business, on a collective basis with all of its affiliates, that
63 may be used from the calculation of any numerator described in subparagraph a. of paragraph
64 (b) of subdivision (1) of this subsection shall be ten million dollars whether issued to one or
65 several qualified community development entities;

66 (9) "Tax credit", a credit against the tax otherwise due under chapter 143, excluding
67 withholding tax imposed in sections 143.191 to 143.265, or otherwise due under section 375.916
68 or chapter 147, 148, or 153;

69 (10) "Taxpayer", any individual or entity subject to the tax imposed in chapter 143,
70 excluding withholding tax imposed in sections 143.191 to 143.265, or the tax imposed in section
71 375.916 or chapter 147, 148, or 153.

72 2. A taxpayer that makes a qualified equity investment earns a vested right to tax credits
73 under this section. On each credit allowance date of such qualified equity investment the
74 taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit
75 during the taxable year including such credit allowance date. The tax credit amount shall be
76 equal to the applicable percentage of the adjusted purchase price paid to the issuer of such
77 qualified equity investment. The amount of the tax credit claimed shall not exceed the amount
78 of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. No tax
79 credit claimed under this section shall be refundable or transferable. Tax credits earned by a
80 partnership, limited liability company, S-corporation, or other pass-through entity may be
81 allocated to the partners, members, or shareholders of such entity for their direct use in
82 accordance with the provisions of any agreement among such partners, members, or
83 shareholders. Any amount of tax credit that the taxpayer is prohibited by this section from
84 claiming in a taxable year may be carried forward to any of the taxpayer's five subsequent taxable
85 years. The department of economic development shall limit the monetary amount of qualified
86 equity investments permitted under this section to a level necessary to limit tax credit utilization
87 at no more than twenty-five million dollars of tax credits in any fiscal year. Such limitation on
88 qualified equity investments shall be based on the anticipated utilization of credits without regard
89 to the potential for taxpayers to carry forward tax credits to later tax years. **Notwithstanding the**
90 **provisions of this section or any other section to the contrary, for all fiscal years beginning**

91 **on or after July 1, 2017, the total amount of tax credits authorized in any fiscal year under**
92 **the provisions of this section shall not exceed fifteen million dollars.**

93 3. The issuer of the qualified equity investment shall certify to the department of
94 economic development the anticipated dollar amount of such investments to be made in this state
95 during the first twelve-month period following the initial credit allowance date. If on the second
96 credit allowance date, the actual dollar amount of such investments is different than the amount
97 estimated, the department of economic development shall adjust the credits arising on the second
98 allowance date to account for such difference.

99 4. The department of economic development shall recapture the tax credit allowed under
100 this section with respect to such qualified equity investment under this section if:

101 (1) Any amount of the federal tax credit available with respect to a qualified equity
102 investment that is eligible for a tax credit under this section is recaptured under Section 45D of
103 the Internal Revenue Code of 1986, as amended; or

104 (2) The issuer redeems or makes principal repayment with respect to a qualified equity
105 investment prior to the seventh anniversary of the issuance of such qualified equity investment.
106 Any tax credit that is subject to recapture shall be recaptured from the taxpayer that claimed the
107 tax credit on a return.

108 5. The department of economic development shall promulgate rules to implement the
109 provisions of this section, including recapture provisions on a scaled proportional basis, and to
110 administer the allocation of tax credits issued for qualified equity investments, which shall be
111 conducted on a first-come, first-serve basis. Any rule or portion of a rule, as that term is defined
112 in section 536.010, that is created under the authority delegated in this section shall become
113 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
114 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the
115 powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective
116 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
117 rulemaking authority and any rule proposed or adopted after September 4, 2007, shall be invalid
118 and void.

119 6. For fiscal years following fiscal year 2010, qualified equity investments shall not be
120 made under this section unless reauthorization is made pursuant to this subsection. For all fiscal
121 years following fiscal year 2010, unless the general assembly adopts a concurrent resolution
122 granting authority to the department of economic development to approve qualified equity
123 investments for the Missouri new markets development program and clearly describing the
124 amount of tax credits available for the next fiscal year, or otherwise complies with the provisions
125 of this subsection, no qualified equity investments may be permitted to be made under this
126 section. The amount of available tax credits contained in such a resolution shall not exceed the

127 limitation provided under subsection 2 of this section. In any year in which the provisions of this
128 section shall sunset pursuant to subsection 7 of this section, reauthorization shall be made by
129 general law and not by concurrent resolution. Nothing in this subsection shall preclude a
130 taxpayer who makes a qualified equity investment prior to the expiration of authority to make
131 qualified equity investments from claiming tax credits relating to such qualified equity
132 investment for each applicable credit allowance date.

133 7. Under section 23.253 of the Missouri sunset act:

134 (1) The provisions of the new program authorized under this section shall automatically
135 sunset six years after September 4, 2007, unless reauthorized by an act of the general assembly;
136 and

137 (2) If such program is reauthorized, the program authorized under this section shall
138 automatically sunset twelve years after the effective date of the reauthorization of this section;
139 and

140 (3) This section shall terminate on September first of the calendar year immediately
141 following the calendar year in which the program authorized under this section is sunset.
142 However, nothing in this subsection shall preclude a taxpayer who makes a qualified equity
143 investment prior to sunset of this section under the provisions of section 23.253 from claiming
144 tax credits relating to such qualified equity investment for each credit allowance date.

135.967. 1. A taxpayer who establishes a new business facility may, upon approval by
2 the department, be allowed a credit, each tax year for up to ten tax years, in an amount
3 determined as set forth in this section, against the tax imposed by chapter 143, excluding
4 withholding tax imposed by sections 143.191 to 143.265. No taxpayer shall receive multiple
5 ten-year periods for subsequent expansions at the same facility.

6 2. Notwithstanding any provision of law to the contrary, any taxpayer who establishes
7 a new business facility in an enhanced enterprise zone and is awarded state tax credits under this
8 section may not also receive tax credits under sections 135.100 to 135.150, sections 135.200 to
9 135.286, or section 135.535, and may not simultaneously receive tax credits under sections
10 620.1875 to 620.1890 at the same facility.

11 3. No credit shall be issued pursuant to this section unless:

12 (1) The number of new business facility employees engaged or maintained in
13 employment at the new business facility for the taxable year for which the credit is claimed
14 equals or exceeds two; and

15 (2) The new business facility investment for the taxable year for which the credit is
16 claimed equals or exceeds one hundred thousand dollars.

17 4. The annual amount of credits allowed for an approved enhanced business enterprise
18 shall be the lesser of:

19 (1) The annual amount authorized by the department for the enhanced business
20 enterprise, which shall be limited to the projected state economic benefit, as determined by the
21 department; or

22 (2) The sum calculated based upon the following:

23 (a) A credit of four hundred dollars for each new business facility employee employed
24 within an enhanced enterprise zone;

25 (b) An additional credit of four hundred dollars for each new business facility employee
26 who is a resident of an enhanced enterprise zone;

27 (c) An additional credit of four hundred dollars for each new business facility employee
28 who is paid by the enhanced business enterprise a wage that exceeds the average wage paid
29 within the county in which the facility is located, as determined by the department; and

30 (d) A credit equal to two percent of new business facility investment within an enhanced
31 enterprise zone.

32 5. Prior to January 1, 2007, in no event shall the department authorize more than four
33 million dollars annually to be issued for all enhanced business enterprises. After December 31,
34 2006, in no event shall the department authorize more than twenty-four million dollars annually
35 to be issued for all enhanced business enterprises. **Notwithstanding the provisions of this**
36 **section or any other section to the contrary, for all fiscal years beginning on or after July**
37 **1, 2017, the total amount of tax credits authorized in any fiscal year under the provisions**
38 **of this section shall not exceed fourteen million dollars.**

39 6. If a facility, which does not constitute a new business facility, is expanded by the
40 taxpayer, the expansion shall be considered eligible for the credit allowed by this section if:

41 (1) The taxpayer's new business facility investment in the expansion during the tax
42 period in which the credits allowed in this section are claimed exceeds one hundred thousand
43 dollars and if the number of new business facility employees engaged or maintained in
44 employment at the expansion facility for the taxable year for which credit is claimed equals or
45 exceeds two, and the total number of employees at the facility after the expansion is at least two
46 greater than the total number of employees before the expansion; and

47 (2) The taxpayer's investment in the expansion and in the original facility prior to
48 expansion shall be determined in the manner provided in subdivision (19) of section 135.950.

49 7. The number of new business facility employees during any taxable year shall be
50 determined by dividing by twelve the sum of the number of individuals employed on the last
51 business day of each month of such taxable year. If the new business facility is in operation for
52 less than the entire taxable year, the number of new business facility employees shall be
53 determined by dividing the sum of the number of individuals employed on the last business day
54 of each full calendar month during the portion of such taxable year during which the new

55 business facility was in operation by the number of full calendar months during such period. For
56 the purpose of computing the credit allowed by this section in the case of a facility which
57 qualifies as a new business facility under subsection 6 of this section, and in the case of a new
58 business facility which satisfies the requirements of paragraph (c) of subdivision (17) of section
59 135.950, or subdivision [(25)] (27) of section 135.950, the number of new business facility
60 employees at such facility shall be reduced by the average number of individuals employed,
61 computed as provided in this subsection, at the facility during the taxable year immediately
62 preceding the taxable year in which such expansion, acquisition, or replacement occurred and
63 shall further be reduced by the number of individuals employed by the taxpayer or related
64 taxpayer that was subsequently transferred to the new business facility from another Missouri
65 facility and for which credits authorized in this section are not being earned, whether such credits
66 are earned because of an expansion, acquisition, relocation, or the establishment of a new
67 facility.

68 8. In the case where a new business facility employee who is a resident of an enhanced
69 enterprise zone for less than a twelve-month period is employed for less than a twelve-month
70 period, the credits allowed by paragraph (b) of subdivision (2) of subsection 4 of this section
71 shall be determined by multiplying four hundred dollars by a fraction, the numerator of which
72 is the number of calendar days during the taxpayer's tax year for which such credits are claimed,
73 in which the employee was a resident of an enhanced enterprise zone, and the denominator of
74 which is three hundred sixty-five.

75 9. For the purpose of computing the credit allowed by this section in the case of a facility
76 which qualifies as a new business facility pursuant to subsection 6 of this section, and in the case
77 of a new business facility which satisfies the requirements of paragraph (c) of subdivision (17)
78 of section 135.950 or subdivision [(25)] (27) of section 135.950, the amount of the taxpayer's
79 new business facility investment in such facility shall be reduced by the average amount,
80 computed as provided in subdivision (19) of section 135.950 for new business facility
81 investment, of the investment of the taxpayer, or related taxpayer immediately preceding such
82 expansion or replacement or at the time of acquisition. Furthermore, the amount of the
83 taxpayer's new business facility investment shall also be reduced by the amount of investment
84 employed by the taxpayer or related taxpayer which was subsequently transferred to the new
85 business facility from another Missouri facility and for which credits authorized in this section
86 are not being earned, whether such credits are earned because of an expansion, acquisition,
87 relocation, or the establishment of a new facility.

88 10. For a taxpayer with flow-through tax treatment to its members, partners, or
89 shareholders, the credit shall be allowed to members, partners, or shareholders in proportion to
90 their share of ownership on the last day of the taxpayer's tax period.

91 11. Credits may not be carried forward but shall be claimed for the taxable year during
92 which commencement of commercial operations occurs at such new business facility, and for
93 each of the nine succeeding taxable years for which the credit is issued

94 12. Certificates of tax credit authorized by this section may be transferred, sold, or
95 assigned by filing a notarized endorsement thereof with the department that names the transferee,
96 the amount of tax credit transferred, and the value received for the credit, as well as any other
97 information reasonably requested by the department. The sale price cannot be less than
98 seventy-five percent of the par value of such credits.

99 13. The director of revenue shall issue a refund to the taxpayer to the extent that the
100 amount of credits allowed in this section exceeds the amount of the taxpayer's income tax.

101 14. Prior to the issuance of tax credits, the department shall verify through the
102 department of revenue, or any other state department, that the tax credit applicant does not owe
103 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
104 fees or assessments levied by any state department and through the department of insurance,
105 financial institutions and professional registration that the applicant does not owe any delinquent
106 insurance taxes. Such delinquency shall not affect the authorization of the application for such
107 tax credits, except that the amount of credits issued shall be reduced by the applicant's tax
108 delinquency. If the department of revenue or the department of insurance, financial institutions
109 and professional registration, or any other state department, concludes that a taxpayer is
110 delinquent after June fifteenth but before July first of any year and the application of tax credits
111 to such delinquency causes a tax deficiency on behalf of the taxpayer to arise, then the taxpayer
112 shall be granted thirty days to satisfy the deficiency in which interest, penalties, and additions
113 to tax shall be tolled. After applying all available credits toward a tax delinquency, the
114 administering agency shall notify the appropriate department, and that department shall update
115 the amount of outstanding delinquent tax owed by the applicant. If any credits remain after
116 satisfying all insurance, income, sales, and use tax delinquencies, the remaining credits shall be
117 issued to the applicant, subject to the restrictions of other provisions of law.

135.1760. 1. As used in this section, the following terms mean:

2 (1) "Contribution", a donation of cash;

3 (2) "Director", the director of the department of revenue;

4 (3) "Fund", the state building and capital improvement fund established in section
5 143.1050;

6 (4) "State tax liability", in the case of a business taxpayer, any liability incurred by
7 such taxpayer under the provisions of chapters 143, 147, 148, and 153, excluding sections
8 143.191 to 143.265 and related provisions, and in the case of an individual taxpayer, any

9 liability incurred by such taxpayer under the provisions of chapter 143, excluding sections
10 143.191 to 143.265 and related provisions;

11 (5) "Tax credit", a credit against the taxpayer's state tax liability;

12 (6) "Tax credit certificate", a certificate evidencing a taxpayer's right to receive a
13 tax credit;

14 (7) "Taxpayer", a person, firm, partner in a partnership, member in a limited
15 liability company, shareholder in an S corporation, or a corporation doing business in this
16 state and subject to the state income tax imposed by the provisions of chapter 143, a
17 corporation subject to the annual corporation franchise tax imposed by the provisions of
18 chapter 147, an insurance company paying an annual tax on its gross premium receipts in
19 this state, or other financial institution paying taxes to this state or any political subdivision
20 of this state under the provisions of chapter 148, an express company that pays an annual
21 tax on its gross receipts in this state under chapter 153, an individual subject to the state
22 income tax imposed by the provisions of chapter 143, or any charitable organization that
23 is exempt from federal income tax and whose Missouri unrelated business taxable income,
24 if any, would be subject to the state income tax imposed under chapter 143.

25 2. (1) Subject to the provisions of subsection 5 of this section, any contribution to
26 the fund made on or after January 1, 2015, shall be eligible for a tax credit as provided by
27 this section.

28 (2) For all tax years beginning on or after January 1, 2015, a taxpayer shall be
29 entitled to receive a tax credit against the taxpayer's state tax liability in an amount equal
30 to one hundred twenty percent of the amount such taxpayer contributed to the fund
31 evidenced by a tax credit certificate.

32 3. The director shall be responsible for the administration and issuance of tax
33 credit certificates authorized by this section.

34 4. The amount of the tax credit claimed shall not exceed the amount of the
35 taxpayer's state tax liability for the taxable year for which the credit is claimed, and such
36 taxpayer shall not be allowed to claim a tax credit in excess of sixty thousand dollars per
37 taxable year. Any amount of credit that the taxpayer is prohibited by this section from
38 claiming in a taxable year shall not be refundable. However, any tax credit that cannot be
39 claimed in the taxable year the contribution was made may be carried over to the next
40 three succeeding taxable years until the full credit has been claimed.

41 5. Except for any excess credit which is carried over under subsection 3 of this
42 section, a taxpayer shall not be allowed to claim a tax credit unless the amount of such
43 taxpayer's contribution to the fund in such taxpayer's taxable year has a value of five
44 hundred dollars or more, up to a maximum of fifty thousand dollars. Any excess of a

45 contribution above fifty thousand dollars or contribution less than five hundred dollars
46 shall be ineligible to receive a tax credit under this section.

47 6. The total amount of tax credits authorized under the provisions of this section
48 shall not exceed one hundred million dollars in any fiscal year. The total amount of tax
49 credits issued but not redeemed shall not exceed three hundred million dollars in any fiscal
50 year. Tax credits shall be issued in the order contributions are received.

51 7. Tax credits issued under this section may not be transferred, sold, or assigned.

52 8. The department of revenue shall notify all taxpayers contributing to the fund
53 after the total amount of tax credits authorized for a taxable year under subsection 6 of this
54 section has been met that no additional tax credits may be issued for the taxable year. Any
55 taxpayer receiving such notification may elect in a manner prescribed by the department
56 to be refunded the amount of their contribution. Any such refund shall be issued to the
57 taxpayer within thirty days of the receipt of a request for a refund.

58 9. The department of revenue may promulgate rules to implement the provisions
59 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that
60 is created under the authority delegated in this section shall become effective only if it
61 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
62 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
63 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
64 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
65 grant of rulemaking authority and any rule proposed or adopted after August 28, 2015,
66 shall be invalid and void.

143.1023. 1. For all taxable years beginning on or after January 1, 2015, each
2 individual or corporation entitled to a tax refund in an amount sufficient to make a
3 designation under this section may designate that ten dollars or any amount in excess of
4 ten dollars on a single return, and twenty dollars or any amount in excess of twenty dollars
5 on a combined return, of the refund due be credited to the state building and capital
6 improvement fund established in section 143.1050. The contribution designation
7 authorized by this section shall be clearly and unambiguously printed on the first page of
8 each income tax return form provided by this state. If any individual or corporation that
9 is not entitled to a tax refund in an amount sufficient to make a designation under this
10 section wishes to make a contribution to the fund, such individual or corporation may, by
11 separate check, draft, or other negotiable instrument, send in with the payment of taxes,
12 or may send in separately, that amount the individual or corporation wishes to contribute.
13 Such amounts shall be clearly designated for the fund.

14 **2. The director of revenue shall deposit at least monthly all contributions**
15 **designated by individuals or corporations under this section to the state treasurer for**
16 **deposit to the fund. A contribution designated under this section shall only be deposited**
17 **in the fund after all other claims against the refund from which such contribution is to be**
18 **made have been satisfied.**

19 **3. Any contribution to the fund of five hundred dollars or more, up to a maximum**
20 **of fifty thousand dollars, shall be eligible for a tax credit as prescribed in section 135.1760.**

21 **4. Notwithstanding the provisions of section 23.253 to the contrary, the provisions**
22 **of this section shall not sunset.**

143.1050. 1. There is hereby created in the state treasury the "State Building and
2 **Capital Improvement Fund", which shall consist of moneys collected under this section.**
3 **The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and**
4 **30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund**
5 **and, upon appropriation, moneys in the fund shall be used solely for the purposes of**
6 **construction, repair, renovation, and rebuilding of state buildings, ports, facilities,**
7 **infrastructure, utilities infrastructure, and such other projects as designated by the general**
8 **assembly. Notwithstanding the provisions of section 33.080 to the contrary, any moneys**
9 **remaining in the fund at the end of the biennium shall not revert to the credit of the**
10 **general revenue fund. The state treasurer shall invest moneys in the fund in the same**
11 **manner as other funds are invested. Any interest and moneys earned on such investments**
12 **shall be credited to the fund. The treasurer shall distribute all moneys deposited in the**
13 **fund as directed by the general assembly.**

14 **2. No appropriation from the fund shall be made if the balance of the fund is or**
15 **would be caused to become under twenty-five million dollars.**

16 **3. Notwithstanding the provisions of subsection 2 of this section to the contrary, the**
17 **general assembly may appropriate money from the fund if the balance of the fund is or**
18 **would be caused to become under twenty-five million dollars to cover the costs of repair**
19 **to government buildings in order to prevent imminent further or future damage to the**
20 **building. No such appropriation shall be made for any circumstance in which the state**
21 **receives federal moneys.**

620.2010. 1. In exchange for the consideration provided by the new tax revenues and
2 **other economic stimuli that will be generated by the new jobs created, a qualified company may,**
3 **for a period of five years from the date the new jobs are created, or for a period of six years from**
4 **the date the new jobs are created if the qualified company is an existing Missouri business, retain**
5 **an amount equal to the withholding tax as calculated under subdivision (30) of section 620.2005**

6 from the new jobs that would otherwise be withheld and remitted by the qualified company
7 under the provisions of sections 143.191 to 143.265 if:

8 (1) The qualified company creates ten or more new jobs, and the average wage of the
9 new payroll equals or exceeds ninety percent of the county average wage;

10 (2) The qualified company creates two or more new jobs at a project facility located in
11 a rural area, the average wage of the new payroll equals or exceeds ninety percent of the county
12 average wage, and the qualified company commits to making at least one hundred thousand
13 dollars of new capital investment at the project facility within two years; or

14 (3) The qualified company creates two or more new jobs at a project facility located
15 within a zone designated under sections 135.950 to 135.963, the average wage of the new payroll
16 equals or exceeds eighty percent of the county average wage, and the qualified company commits
17 to making at least one hundred thousand dollars in new capital investment at the project facility
18 within two years of approval.

19 2. In addition to any benefits available under subsection 1 of this section, the department
20 may award a qualified company that satisfies subdivision (1) of subsection 1 of this section
21 additional tax credits, issued each year for a period of five years from the date the new jobs are
22 created, or for a period of six years from the date the new jobs are created if the qualified
23 company is an existing Missouri business, in an amount equal to or less than six percent of new
24 payroll; provided that in no event may the total amount of benefits awarded to a qualified
25 company under this section exceed nine percent of new payroll in any calendar year. The amount
26 of tax credits awarded to a qualified company under this subsection shall not exceed the
27 projected net fiscal benefit to the state, as determined by the department, and shall not exceed
28 the least amount necessary to obtain the qualified company's commitment to initiate the project.
29 In determining the amount of tax credits to award to a qualified company under this subsection,
30 the department shall consider the following factors:

31 (1) The significance of the qualified company's need for program benefits;

32 (2) The amount of projected net fiscal benefit to the state of the project and the period
33 in which the state would realize such net fiscal benefit;

34 (3) The overall size and quality of the proposed project, including the number of new
35 jobs, new capital investment, proposed wages, growth potential of the qualified company, the
36 potential multiplier effect of the project, and similar factors;

37 (4) The financial stability and creditworthiness of the qualified company;

38 (5) The level of economic distress in the area;

39 (6) An evaluation of the competitiveness of alternative locations for the project facility,
40 as applicable; and

41 (7) The percent of local incentives committed.

42 3. Upon approval of a notice of intent to receive tax credits under subsections 2 and 5
43 of this section, the department and the qualified company shall enter into a written agreement
44 covering the applicable project period. The agreement shall specify, at a minimum:

45 (1) The committed number of new jobs, new payroll, and new capital investment for
46 each year during the project period;

47 (2) The date or time period during which the tax credits shall be issued, which may be
48 immediately or over a period not to exceed two years from the date of approval of the notice of
49 intent;

50 (3) Clawback provisions, as may be required by the department; and

51 (4) Any other provisions the department may require.

52 4. In lieu of the benefits available under sections 1 and 2 of this section, and in exchange
53 for the consideration provided by the new tax revenues and other economic stimuli that will be
54 generated by the new jobs created by the program, a qualified company may, for a period of five
55 years from the date the new jobs are created, or for a period of six years from the date the new
56 jobs are created if the qualified company is an existing Missouri business, retain an amount equal
57 to the withholding tax as calculated under subdivision (30) of section 620.2005 from the new
58 jobs that would otherwise be withheld and remitted by the qualified company under the
59 provisions of sections 143.191 to 143.265 equal to:

60 (1) Six percent of new payroll for a period of five years from the date the required
61 number of new jobs were created if the qualified company creates one hundred or more new jobs
62 and the average wage of the new payroll equals or exceeds one hundred twenty percent of the
63 county average wage of the county in which the project facility is located; or

64 (2) Seven percent of new payroll for a period of five years from the date the required
65 number of jobs were created if the qualified company creates one hundred or more new jobs and
66 the average wage of the new payroll equals or exceeds one hundred forty percent of the county
67 average wage of the county in which the project facility is located.

68

69 The department shall issue a refundable tax credit for any difference between the amount of
70 benefit allowed under this subsection and the amount of withholding tax retained by the
71 company, in the event the withholding tax is not sufficient to provide the entire amount of benefit
72 due to the qualified company under this subsection.

73 5. In addition to the benefits available under subsection 4 of this section, the department
74 may award a qualified company that satisfies the provisions of subsection 4 of this section
75 additional tax credits, issued each year for a period of five years from the date the new jobs are
76 created, or for a period of six years from the date the new jobs are created if the qualified
77 company is an existing Missouri business, in an amount equal to or less than three percent of

78 new payroll; provided that in no event may the total amount of benefits awarded to a qualified
79 company under this section exceed nine percent of new payroll in any calendar year. The amount
80 of tax credits awarded to a qualified company under this subsection shall not exceed the
81 projected net fiscal benefit to the state, as determined by the department, and shall not exceed
82 the least amount necessary to obtain the qualified company's commitment to initiate the project.
83 In determining the amount of tax credits to award to a qualified company under this subsection,
84 the department shall consider the factors provided under subsection 2 of this section.

85 6. No benefits shall be available under this section for any qualified company that has
86 performed significant, project-specific site work at the project facility, purchased machinery or
87 equipment related to the project, or has publicly announced its intention to make new capital
88 investment at the project facility prior to receipt of a proposal for benefits under this section or
89 approval of its notice of intent, whichever occurs first.

90 **7. Notwithstanding the provisions of this section or any other section to the**
91 **contrary, for all fiscal years beginning on or after July 1, 2017, the total amount of tax**
92 **credits authorized in any fiscal year under the provisions of sections 620.2000 to 620.2020**
93 **shall not exceed seventy-six million dollars.**

✓